

REMARKS

Claims 1-3, 6-18 and 21-36, as amended, remain in this application for the Examiner's review and consideration. Claims 4-5 and 19-20 have been canceled from consideration with the present application without prejudice to pursue the subject matter of these claims in one or more divisional or continuation applications. The claims have been amended to more clearly define the scope of protection sought by the present application. In particular, claims 1, 16 and 31, have been amended to include the recitations from claim 5. Several independent claims have been amended for compliance with the amendments to claims 1, 16 and 31 and to correct dependencies resulting from the cancellation of claims 4-5 and 19-20. As these amendments do not introduce any new matter into the above identified application, their entry at this time is warranted.

On page 2 of the Office Action, it was asserted that the information contained in the Information Disclosure Statement filed 5/14/04 was not considered because no corresponding copies of for any of the cited non-patent literature were provided. However, as evidence by the underlined text in the enclosed copy of that Information Disclosure Statement, "[c]opies of all the [21] cited references [were] enclosed." This fact was attested to by a signed certification under 37 C.F.R. § 1.8(a) appearing on the Information Disclosure Statement and the enclosed stamped return receipt postcard attesting to the fact that the Disclosure Statement was submitted with 21 references. Applicants also note that the Examiner has initialed one of the references appearing on the second of three 1449 sheets. Therefore, the Examiner has a copy of that reference. It is understandable that these references, being numerous and potentially voluminous, may have been misplaced during the initial processing of the Information Disclosure Statement. However, this error would have occurred through not fault of Applicants. Therefore, Applicants respectfully request that the Examiner fully considered each reference and initial in the appropriate location on the three 1449 forms. Should Examiner require replacement copies of these references, Applicants will work with the Examiner to accommodate such a request.

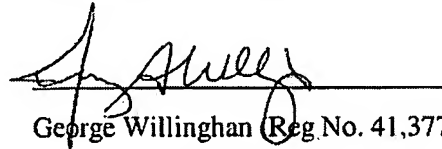
Claims 1-30 were rejected under 35 U.S.C. § 101 because the claimed invention was directed to non-statutory subject matter for the reasons given on pages 2-3 of the Office Action. It was asserted that a step of "using the created tree as a multicast tree by delivering data from a source to an identified group of nodes based on the multicast tree be added to claims 1 and 16. Applicants disagree with this assertion for the following reasons. As was

stated in the Office Action, "the claim must either have independent physical acts or be limited to a practical application by producing a concrete, tangible and useful result." Therefore, as an alternative to producing useful results, the claim can include independent physical acts. Section 2106.02 of the MPEP states that claims define non-statutory subject matter if they simply manipulate abstract ideas without some claimed practical application, citing *In re Schrader*, 22 F. 3d 290, 293-94. However, *Schrader* makes it clear that claims involving the transformation or conversion of subject matter representative of or constituting physical activity or objects recite patentable subject matter. *Id.* at 294. The examples provided in *Schrader* included electrocardiograph signals representative of human cardiac activity, X-ray attenuation data representative of CAT scan images and seismic reflection signals representative of discontinuities below the Earth's surface. *Id.* Therefore, changes to intangible subject matter representative of objects constitute patentable subject matter. As was the case in *Schrader*, claims 1 and 16, the independent claims, recite changes or manipulations to nodes, which are representations of physical objects. As described in the specification, these physical objects include hosts, members or subscribers in a network and include a geographical location and an Internet Protocol (IP) address. Specification at page 4, lines 16-17 and page 6, lines 18-28. Therefore, claims 1-30 are directed to statutory subject matter, and Applicants respectfully request that this rejection be reconsidered and withdrawn.

Applicants appreciate the Examiner's indication in paragraph 8 of the Office Action that claims 5-14 and 20-29 contain allowable subject matter. Applicants have amended claims 1, 16 and 31, the only independent claims, to each include the recitations of claim 5. These amendments render moot all pending rejections to the claims. Therefore, all current rejections have been overcome and should be withdrawn.

Applicants assert that all claims are now in condition for allowance, early notification of which is respectfully requested. As the present amendments do not introduce any new claims above the original number of filed claims, no fees are believed due for the submission of this amendment. A petition for a one month extension of time for the filing of this amendment along with provisions for payment of the prescribed fee is submitted herewith. No other fees are believed due.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George Willingham", is written over a horizontal line.

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Date: February 4, 2008

Enclosures

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: LIU, Zhen et al.

Application No.: 10/800,305

Group Art Unit: To Be Assigned

Filed: March 13, 2004

Examiner: To Be Assigned

For:

Atty Docket No.: YOR920040072US1

METHODS AND APPARATUS FOR
CONTENT DELIVERY VIA APPLICATION
LEVEL MULTICAST WITH MINIMUM
COMMUNICATION DELAY

INFORMATION DISCLOSURE STATEMENT
PURSUANT TO 37 C.F.R. §§ 1.56 & 1.97(b)(1)

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In accordance with the duty of disclosure provisions of C.F.R. § 1.56, Applicants hereby submit and bring to the Examiner's attention the 21 references listed on the three enclosed substitute for form 1449/PTO. Copies of all of the cited references are enclosed. It is requested that the Examiner make this information of record in the case by initialling each reference, signing and dating each sheet and returning a copy of the signed sheets to the applicants.

Since this Information Disclosure Statement is being filed under 37 C.F.R. § 1.97(b)(1) within three months of the U.S. patent application filing date, no fee is believed due.

Respectfully submitted,

Dated: May 13, 2004

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CERTIFICATION UNDER 37 C.F.R. 1.8(a)

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail in the envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 13, 2004.

George A. Willingham, III
(Name)

George A. Willingham, III
(Signature)

41,377 May 13, 2004
(Reg. No.) (Date of Signature)

VIA FIRST CLASS MAIL

Date Mailed: May 13, 2004

Serial No. 10/800,305

Applicant: LIU, Zhen et al.

Date Filed: March 13, 2004

Title: Methods and Apparatus for Content Delivery via Application Level Multicast with Minimum Communication Delay

- ☐ Affidavit/Declaration
- ☐ Amendment
- ☐ Application

No. of Pages:

No. of Claims:

- ☐ Appeal, Notice of
- ☐ Executed Assignment/Recordation Form
- ☐ Brief (in triplicate)
- ☐ Declaration/Power of Attorney
- ☐ Design Application
- ☐ Disclaimer
- ☒ Disclosure Statement
 - ☒ w/refs. (21)
 - ☐ w/o refs.
- ☐ Formal Drawings
 - Sheets
 - Figures



- ☐ Fee Address Indication Form
- ☐ Fee Transmittal
- ☐ Issue Fee Transmittal
- ☐ Letter
- ☐ Oral Hearing Req./Confirm
- ☐ Petition to Extend Time
- ☐ Petition under 37 C.F.R.
- ☐ Power of Attorney
- ☐ Associate Power of Attorney w/Revocation
- ☐ Request for Non-Publication
- ☐ Response to Notice to File Missing Parts
- ☐ Response to an Office Action
- ☐ Sequence Listing
 - ☐ Computer Readable Diskette
 - ☐ Paper Copy
- ☐ Status Letter
- ☐ Utility Application Transmittal
- ☐ Other:

Attorney Ref.: YOR920040072US1